

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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DANIEL ENGLISH TRUST, by DANIEL  
ENGLISH, Trustee,

UNPUBLISHED  
March 27, 2014

Plaintiff-Appellee,

v

No. 314057  
Kent Circuit Court  
LC No. 11-007047-CB

EQUITY LOGISTICS, INC., EQUITY  
TRANSPORTATION COMPANY, INC.,  
ALLERT C. BISHOP TRUST, BRADLEY E.  
POSS TRUST, and CHAD AND CHRISTINE  
BISHOP TRUST,

Defendants-Appellants.

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Before: GLEICHER, P.J., and HOEKSTRA and O'CONNELL, JJ.

PER CURIAM.

In this shareholder action, defendants appeal as of right the trial court's order awarding plaintiff \$50,000 in accordance with the case evaluation accepted by the parties. We affirm.

The appeal arises out of an action filed by plaintiff, as a shareholder of Equity Logistics, against defendants, alleging that Equity Logistics (1) unlawfully diverted its profits for the benefit of Equity Transportation Company and other companies owned by defendant shareholders, and (2) failed to distribute financial reports as required by the Michigan Business Corporation Act (MBCA), all of which plaintiff alleged constituted willful, unfair, and oppressive conduct affecting his rights as a shareholder, in violation of MCL 450.1489. Plaintiff moved for summary disposition pursuant to MCR 2.116(C)(10), which was granted by the trial court. However, in fashioning a remedy, the trial court determined that case evaluation, which had already been scheduled, should proceed in order to determine damages. If case evaluation did not resolve the issue, an evidentiary hearing would be held.

The case evaluation panel entered an award in favor of plaintiff in the amount of \$50,000, which all parties accepted. Defendants did not pay the judgment. Plaintiff then submitted a proposed order of judgment to the trial court which mirrored the case evaluation award. Defendants objected to the proposed order and contended that the order did not properly reflect the case evaluation award. In addition, defendants argued that the trial court "should find that the entire stock issue matter—past, present, and future—has been resolved." After a hearing, the

trial court ruled in favor of plaintiff. The trial court thereafter entered plaintiff's proposed order as the final judgment.

On appeal, defendants argue the trial court misinterpreted the case evaluation award. Defendants' argument appears to be that the case evaluation award of \$50,000 reflected the value of plaintiff's interest in Equity Logistics, and that the award therefore terminated any interest plaintiff had in that corporation. We disagree. MCR 2.403(M)(1), which governs the effect of a case evaluation accepted by both parties, provides, in relevant part:

If all the parties accept the panel's evaluation, judgment *will* be entered *in accordance with the evaluation*, unless the amount of the award is paid within 28 days after notification of the acceptances, in which case the court shall dismiss the action with prejudice. The judgment or dismissal shall be deemed to dispose of all claims in the action and includes all fees, costs, and interest to the date it is entered . . . . [MCR 2.403(M)(1) (emphasis added).]

Once all parties accept the panel's evaluation and a judgment or dismissal has been entered, "the case is over." *CAM Const v Lake Edgewood Condominium Ass'n*, 465 Mich 549, 557; 640 NW2d 256 (2002). Here, the case evaluation was clear on its face: it simply declared that plaintiff was entitled to a monetary award of \$50,000 and made no mention of the effect, if any, the case evaluation had on plaintiff's interest in Equity Logistics. Thus, the trial court's judgment made no finding as to plaintiff's interest in Equity Logistics, and defendants' claim to the contrary is unavailing.

Because plaintiff's interest in Equity Logistics was not affected by the trial court's judgment, defendants' argument that all future claims should be barred is also unavailing. MCR 2.403(M)(1) makes clear that, "[i]f all parties accept the panel's evaluation, the case is over." *CAM Const*, 465 Mich at 557. However, the plain language of the rule makes clear that the judgment disposes only of "all claims *in the action*." MCR 2.403(M)(1) (emphasis added). It does not mean that plaintiff is forever barred from bringing subsequent actions against defendants based on *future* violations of the MBCA which affect its rights as a shareholder. Accordingly, no error can be found in the trial court's entry of judgment in accordance with the case evaluation.

Affirmed.

/s/ Elizabeth L. Gleicher  
/s/ Joel P. Hoekstra  
/s/ Peter D. O'Connell